

**AGREEMENT BETWEEN THE
CITY OF PORT ST. LUCIE, FLORIDA
AND
TRANE US INC.
FOR
HVAC PRODUCTS, INSTALLATION, LABOR BASED SOLUTIONS, AND
RELATED PRODUCTS AND SERVICES
COOPERATIVE AGREEMENT**

THIS AGREEMENT is made and entered into as of the date last entered below by and between the **CITY OF PORT ST. LUCIE**, a Florida municipal corporation, whose mailing address is 121 SW Port St. Lucie Blvd., Port St. Lucie, FL 34984 (“City”) and **TRANE U.S. INC.**, a Foreign Profit Corporation, whose mailing address is 800 Beaty Street, Davidson, North Carolina 28036 (“Contractor”). City and Contractor may be referred to herein individually as a “party” or collectively as the “parties.”

WITNESSETH

WHEREAS, the City requires goods and services of Contractor pursuant to IFB # RC2022-1001 and resulting Contract #3341, for HVAC Products, Installation, Labor Based Solutions, and Related Products and Services, between the Contractor and Racine County, Wisconsin (OMNIA) (“Lead Agency”), including its amendments, assignments, renewals and addenda (collectively referred to as “Contract Documents” or the “Contract”); and

WHEREAS, the parties wish to incorporate the terms and conditions of the Contract Documents between the Contractor, its predecessors and/or assignors, and the Lead Agency, including any and all Contract renewals, amendments and change orders, substituting the “City of Port St. Lucie” for references to the Lead Agency in all places; and

WHEREAS, the City has the authority to enter into this Agreement with Contractor per IFB # RC2022-1001, Section K – National Contract, Page 11-12, which was agreed upon by both the Lead Agency and the Contractor, its predecessors and/or assignors; and

WHEREAS, the City has determined that the original procurement was lawful, the Contractor, its predecessors and/or assignors, acted at all times in accordance with Florida law when bidding and the competitive procurement method used by the Lead Agency is consistent with the purchasing policies and requirements of the City.

NOW THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the receipt and sufficiency of which is hereby acknowledged, the parties agree to modify and supplement the Contract Documents with the following terms and conditions:

Section 1. Whereas. The “whereas” clauses are hereby incorporated herein as forming the intent, purpose, and scope of this Agreement.

Section 2. Terms. This Agreement shall utilize the cooperative Contract as follows :

- A. Incorporation of the Contract. Except as otherwise set forth in this Agreement, the parties hereby incorporate into this Agreement the terms and conditions of the Contract between the Contractor, its predecessors, successors and/or assignees, and the Lead Agency, including any Contract renewals, amendments, and change orders.
- B. Substitution. Except where the context requires otherwise, such as, but not limited to, compliance with City ordinances and regulations, City shall be deemed substituted for the Lead Agency/Buyer/Customer regarding any and all provisions of the Contract, including by example, but not limited to, with regard to bond requirements, insurance, indemnification, licensing, termination, default, and ownership of documents. All recitals, covenants, representations, and warranties of Contractor made in the Contract are restated as if set forth fully herein, made for the benefit of City, and incorporated herein.
- C. Term. This Agreement shall be effective from the date upon which all parties have executed it through August 31, 2027. This Contract allows up to one (1) additional five (5) year renewal.
- D. Purchase Orders. The City shall issue a Purchase Order for products and/or services it wishes to procure under the Contract.
- E. Product and Pricing. All products and pricing shall be as according to the Contract.
- F. Delivery Time and Location. All prices shall include delivery F.O.B. City location.
- G. Government Appropriation. The parties acknowledge and agree that, if any purchases are made beyond City’s current fiscal year (on or after October 1st), such purchases made under this Agreement are contingent upon an annual budget appropriation by the City Council.
- H. Tax Exemption. The City may be tax exempt and will share its tax-exempt certificate upon request.
- I. Conflict. In the event of conflict between the Contract and this Agreement, the terms and conditions in this Agreement shall supersede and take precedence over the Contract.
- J. Sovereign Immunity. Nothing in this Agreement, nor in the Contract, shall be deemed or otherwise interpreted as waiving City’s sovereign immunity protections existing under the

laws of the State of Florida, or extending or increasing the limits of liability as set forth in section 768.28, Florida Statutes.

Section 3. Notice. Notice hereunder shall be provided in writing by certified mail return receipt requested, or customarily used overnight transmission with proof of delivery, to the City Manager at the address listed above.

Section 4. Public Records. Contractor understands that City is a public entity whose records are available and open to the public for review and inspection. Contractor agrees to comply with public records laws, specifically to:

- A. Keep and maintain public records required by the City to perform the service.
 - 1. The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies and GS2 for Criminal Justice Agencies and District Medical Examiners. (See <http://dos.myflorida.com/library-archives/records-management/general-records-schedules>).
 - 2. During the term of the Agreement, the Contractor shall maintain all books, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this Agreement.
 - 3. Records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the City. Contractor's records under this Agreement include but are not limited to, supplier/sub engineer invoices and contracts, project documents, meeting notes, emails, and all other documentation generated during this Agreement.
 - 4. The Contractor agrees to make available to the City, during normal business hours and upon reasonable advance written notice, such books of account, reports, and records that are reasonably necessary to verify compliance with this Agreement or respond to any necessary public record requests, and only to the extent relevant to the City's stated purpose for the request. As allowed by applicable law, the Contractor reserves the right to determine the specific documentation to be provided, to avoid overproduction of irrelevant materials, and may redact or otherwise protect any confidential or proprietary information, provided such redactions do not materially impair the City's ability to verify compliance or respond to any public record request. For the sake of clarity, the City following the law shall not be cause for breach of contract or any damages to Contractor.

5. A Contractor who fails to provide the public records to the City within a reasonable time may also be subject to penalties under section 119.10, Florida Statutes.
- C. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for by law.
- D. Ensure that project records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to City.
- E. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon the completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records kept electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**CITY CLERK
121 SW PORT ST. LUCIE BLVD.
PORT ST. LUCIE, FL 34984
(772) 871-5157
PRR@CITYOFPSL.COM**

Section 5. Scrutinized Vendors List. By entering into this Agreement with the City, Contractor certifies that it and those related entities of Contractor, as defined by Florida law, are not on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, and are not engaged in a boycott of Israel. The City may terminate this Agreement if Contractor or any of those related entities of Contractor, as defined by Florida law, are found to have submitted a false certification or any of the following occur with respect to the company or a related entity: (i) it has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, or (ii) for any contract for goods or services of one million dollars or more, it has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in

the Iran Petroleum Energy Sector List, or it is found to have been engaged in business operations in Cuba or Syria. Notwithstanding the preceding, the City reserves the right and may, in its sole discretion, on a case by case basis, permit a company on such lists or engaged in business operations in Cuba or Syria to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of one million dollars or more, or may permit a company on the Scrutinized Companies that Boycott Israel List to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of any amount, should the City determine that the conditions set forth in section 287.135(4), Florida Statutes, are met.

Section 6. Law, Venue and Wavier of Jury Trial. This Agreement is to be construed as though made in and to be performed in the State of Florida and is to be governed by the laws of Florida in all respects without reference to the laws of any other state or nation. The venue of any action taken to enforce this Agreement, arising from this Agreement, or related to this Agreement, shall be in St. Lucie County, Florida.

Section 7. Indemnification. Contractor agrees to indemnify, defend, and hold harmless, the City, its officers, agents, and employees from, and against any and all third-party claims, actions, liabilities, losses and expenses including, but not limited to, attorney's fees resulting from bodily injury or wrongful death, or loss of or damage to property, at law or in equity, to the extent arising from the negligent acts, errors, omissions or other wrongful conduct of Contractor, agents, laborers, subcontractors or other personnel entity acting under Contractor control in connection with the Contractor's performance of services under this Agreement. To that extent, Contractor shall pay any and all such claims and losses and shall pay any and all such costs and judgments which may issue from any lawsuit arising from such claims and losses by Contractor's employees or responsible parties for wrongful termination or allegations of discrimination or harassment, and shall pay all costs and attorney's fees expended by the City in defense of such claims and losses, including appeals. Notwithstanding, if the parties are both at fault, Contractor's obligation to indemnify or hold harmless City shall be proportional to its relative fault. Contractor shall be held responsible for any violation of laws, rules, regulations, or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by Contractor on the work. This indemnification shall survive the termination of this Agreement. That the aforesaid hold-harmless agreement by Contractor shall apply regardless of whether of not such insurance policies shall have been determined to be applicable to any such damage or claims for damage.

Contractor understands the City is a government entity, so any provision Contractor even purports, in any document or information, requires the City to indemnify, defend, or hold harmless the Contractor, or any other party, is null, void, and unenforceable. Nothing herein shall be construed as a waiver of City's sovereign immunity provided by the Florida Constitution or Sec. 768.28, Fla. Stat., nor a consent to be sued by third parties.

NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, INDIRECT CONSEQUENTIAL, PUNITIVE, EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION REFRIGERANT LOSS, BUSINESS INTERRUPTION, LOST DATA, LOST REVENUE AND LOST PROFITS) OR CONTAMINANTS LIABILITIES, EVEN IF A PARTY HAS BEEN ADVISED OF SUCH POSSIBLE DAMAGE OR IF SAME

WERE REASONABLY FORESEEABLE AND REGARDLESS OF WHETHER SUCH LIABILITY ARISES FROM BREACH OF CONTRACT, NEGLIGENCE, TORT, WARRANTY, STRICT LIABILITY, PRODUCT LIABILITY, OR ANY OTHER THEORY. In no event will either party's liability in connection with the provision of products or services or otherwise under this Agreement exceed the entire amount paid to Contractor by City under this Agreement. Notwithstanding the foregoing, nothing in this section will be construed to impose any limitation prohibited by rule 6A-1.006(3), Florida Administrative Code.

The transmission of COVID-19 may occur in a variety of ways and circumstances, many of the aspects of which are currently not known. HVAC systems, products, services and other offerings have not been tested for their effectiveness in reducing the spread of COVID-19, including through the air in closed environments. IN NO EVENT WILL CONTRACTOR BE LIABLE UNDER THIS AGREEMENT OR OTHERWISE FOR ANY INDEMNIFICATION, ACTION OR CLAIM, WHETHER BASED ON WARRANTY, CONTRACT, TORT OR OTHERWISE, FOR ANY BODILY INJURY (INCLUDING DEATH) OR ANY OTHER LIABILITIES, DAMAGES OR COSTS DIRECTLY AND SOLELY RELATED TO CONTAMINANTS (INCLUDING THE SPREAD, TRANSMISSION, MITIGATION, ELIMINATION, OR CONTAMINATION THEREOF) (COLLECTIVELY, "CONTAMINANTS LIABILITIES") AND CITY HEREBY EXPRESSLY RELEASES CONTRACTOR FROM ANY SUCH CONTAMINANTS LIABILITIES.

Section 8. Insurance. The Contractor shall, on a primary basis and at its sole expense, agree to maintain in full force and effect at all times during the life of this Agreement, insurance coverage and limits, including endorsements, as described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by the Contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Contractor under the Agreement.

The parties agree and recognize that it is not the intent of the City that any insurance policy/coverage that it may obtain pursuant to any provision of this Agreement will provide insurance coverage to any entity, corporation, business, person, or organization, other than the City of Port St. Lucie and the City shall not be obligated to provide any insurance coverage other than for the City of Port St. Lucie or extend its immunity pursuant to section 768.28, Florida Statutes, under its self-insured program. Any provision contained herein to the contrary shall be considered void and unenforceable by any party. This provision does not apply to any obligation imposed on any other party to obtain insurance coverage for this project and/or any obligation to name the City of Port St. Lucie as an additional insured under any other insurance policy or otherwise protect the interests of the City of Port St. Lucie as specified in this Agreement.

Workers' Compensation Insurance & Employer's Liability: The Contractor shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with section 440, Florida Statutes. Employers' Liability must include limits of at least \$100,000.00 each accident, \$100,000.00 each disease/employee, and \$500,000.00 each disease/maximum. A Waiver of Subrogation endorsement must be provided. Coverage shall apply on a primary basis. Should scope of work performed by contractor qualify its employee(s) for benefits under Federal Workers' Compensation Statute (for example, U.S. Longshore & Harbor Workers Act or Merchant Marine Act), proof of appropriate Federal Act coverage must be provided.

Commercial General Liability Insurance: The Contractor shall agree to maintain Commercial General Liability insurance, issued under an Occurrence form basis, including Contractual liability, to cover the hold harmless agreement set forth herein, with limits of not less than:

Each occurrence	\$1,000,000
Personal/advertising injury	\$1,000,000
Products/completed operations aggregate	\$2,000,000
General aggregate	\$3,000,000
Fire damage	\$100,000 any 1 fire
Medical expense	\$10,000 any 1 person
Time Element Pollution	\$1,000,000 per occurrence; \$2,000,000 aggregate
Professional Liability	\$2,000,000 per occurrence

Additional Insured: An Additional Insured endorsement, subject to the manuscript endorsement **must** be attached to the certificate of insurance and must include coverage for on-going and Completed Operations (should be ISO CG2037 & CG2010) under the General Liability policy. Products & Completed Operations coverage to be provided for a minimum of five (5) years from the date of possession by City or completion of contract. Coverage is to be written on an occurrence form basis. Coverage shall apply on a primary and non-contributory basis. A per project aggregate limit endorsement should be attached. A waiver of subrogation shall be provided in favor of the City. Coverage for the hazards of explosion, collapse and underground property damage (XCU) must also be included when applicable to the work performed. No exclusion for bodily injury/property damage arising out of heat, smoke, fumes, or hostile fire shall apply. Coverage shall extend to fellow employees. Contractual Liability is to be included. Coverage is to include a cross liability or severability of interests provision as provided under the standard ISO form separation of insurers clause.

Except as to Workers' Compensation and Employers' Liability insurances, Certificates of Insurance and policies shall clearly state that coverage required by the Agreement has been endorsed to include the City of Port St. Lucie, a municipality of the State of Florida, its officers, agents and employees as Additional Insured for Commercial General Liability and Business Auto Liability policies, subject to the manuscript endorsement. The name for the Additional Insured endorsement issued by the insurer shall read: **"City of Port St. Lucie, a municipality of the State of Florida, its officers, employees and agents shall be listed as additional insured and shall include Contract #20250315 – HVAC Products, Installation, Labor Based Solutions, and Related Products and Services."** Copies of the Additional Insured endorsement forms shall be attached to the Certificate of Insurance. The policies shall be specifically endorsed to provide thirty (30) days written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. Formal written notice shall be sent to City of Port St. Lucie, 121 SW Port St. Lucie Blvd., Port St. Lucie, FL 34984, Attn: Procurement. In the event that the statutory liability of the City is amended during the term of this Agreement to exceed the above limits, the Contractor shall be required, upon thirty (30) days written notice by the City, to provide coverage at least equal

to the amended statutory limit of liability of the City. Copies of the Additional Insured endorsement forms shall be attached to the Certificate of Insurance.

Business Automobile Liability Insurance: The Contractor shall agree to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000.00 each accident covering any auto, owned, non-owned, and hired automobiles. In the event the Contractor does not own any automobiles, the Business Auto Liability requirement shall be amended allowing Contractor to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. Certificate holder must be listed as additional insured, subject to manuscript endorsement. A waiver of subrogation must be provided. Coverage shall apply on a primary and non-contributory basis.

Waiver of Subrogation: By entering into this Agreement, Contractor agrees to a Waiver of Subrogation for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss contract to waive subrogation without an endorsement, then Contractor shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy where a condition to the policy specifically prohibits such an endorsement, or voids coverage should Contractor enter into such a contract on a pre-loss basis.

Deductibles: All deductible amounts shall be paid for and be the responsibility of the Contractor for any and all claims under this Agreement.

It shall be the responsibility of the Contractor to ensure that all independent contractors and subcontractors comply with the insurance requirements listed below. It shall be the responsibility of the Contractor to obtain Certificates of Insurance from all independent contractors and subcontractors listing the City as an Additional Insured. If Contractor, any independent contractor, or any subcontractor maintain higher limits than the minimums listed above, the City requires and shall be entitled to coverage for the higher limits maintained by Contractor/independent contractor/subcontractor.

COVERAGES	LIMITS OF LIABILITY
Workers' Compensation, Including Statutory Employers' Liability Insurance	statutory \$500,000
Comprehensive General Liability Insurance, including Contractual Liability, Independent Contractor's Coverage, and broad form PD XCU exclusion shall be deleted	\$1,000,000 CSL or \$1,000,000 each occurrence BI/PD \$2,000,000 aggregate
Comprehensive Automobile Injury Liability Insurance	\$500,000 per person \$1,000,000 per accident BI \$500,000 per accident PD

The Contractor may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employers' Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employers' Liability.

All insurance carriers must have an AM Best rating of at least A:VII or better.

A failure on the part of the Contractor to execute the Agreement and/or punctually deliver the required insurance certificates and other documentation may be cause for annulment of this Agreement.

Section 9. Audits. The Contractor shall establish and maintain a reasonable accounting system that enables the City to readily identify the Contractor's assets, expenses, costs of goods, and use of funds throughout the term of this Agreement, as necessary to verify compliance with the Agreement, for a period of at least seven (7) years following the date of final payment or completion of any required audit, whichever is later. Records, if applicable and necessary to verify compliance with this Agreement, shall include, but are not limited to, accounting records, written policies and procedures; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); all paid vouchers including those for out-of-pocket expenses; other reimbursements supported by invoices; ledgers; cancelled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; back charge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence. The Contractor shall permit the City's authorized auditor or any authorized representative of the State, and where federal funds are involved, the Comptroller General of the United States, or any other authorized representative of the United States government, to access and examine, audit, excerpt, and to make copies of such books, documents, papers, electronic or optically stored and created records, or other records relating or pertaining to this Agreement kept by or under the control of the Contractor, including, but not limited to, those kept by the Contractor, its employees, agents, assigns, successors, and subcontractors that are reasonably necessary to verify compliance with this Agreement, and only to the extent relevant to the requestors stated purpose. As allowable by law, the Contractor reserves the right to determine the specific documentation to be provided, to avoid overproduction of irrelevant materials, and may redact or otherwise protect any confidential or proprietary information, provided such redactions do not materially impair the requestor's ability to verify compliance. If the City is audited by a third-party the Contractor shall in good faith comply with all requests. Such records shall be made available to the City during normal business hours at the Contractor's office or place of business. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records. If an audit discloses incorrect billings or improprieties, the City reserves the right to charge the Contractor for the appropriate reimbursement, which shall be reviewed by Contractor for accuracy, and the parties will discuss in good faith and appropriate reimbursement. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the Contractor's invoices and/or records shall be made within a reasonable amount of time (not to exceed ninety (90) days) from presentation of the City's findings to the Contractor. Evidence of criminal conduct will be turned over to the

proper authorities. For the sake of clarity, the City following the law shall not be cause for breach of contract or any damages to Contractor.

The Contractor shall ensure the City has these rights with Contractor's employees, agents, assigns, successors, and subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Contractor and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the Contractor's obligations to the City.

Section 10. E-Verify. In accordance with section 448.095, Florida Statutes, the Contractor agrees to comply with the following:

1. Contractor must register with and use the E-Verify system to verify the work authorization status of all new employees of the Contractor. Contractor must provide City with sufficient proof of compliance with this provision before beginning work under this Agreement.
2. If Contractor enters into a contract with a subcontractor, Contractor must require each and every subcontractor to provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The Contractor shall maintain a copy of each and every such affidavit(s) for the duration of this Agreement and any renewals thereafter.
3. The City shall terminate this Agreement if it has a good faith belief that a person or an entity with which it is contracting has knowingly violated section 448.09(1), Florida Statutes.
4. Contractor shall immediately terminate any contract with any subcontractor if Contractor has, or develops, a good faith belief that the subcontractor has violated section 448.09(1), Florida Statutes. If City has or develops a good faith belief that any subcontractor of Contractor knowingly violated section 448.09(1), Florida Statutes, or any provision of section 448.095, Florida Statutes, the City shall promptly notify the Contractor and order the Contractor to immediately terminate the contract with the subcontractor.
5. The City shall terminate this Agreement for violation of any provision in this section. If the Agreement is terminated under this section, it is not a breach of contract and may not be considered as such. If the City terminates this Agreement under this section, the Contractor may not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. A contractor is liable for any additional costs incurred by the City as a result of the termination of a contract.
6. The City, Contractor, or any subcontractor may file a cause of action with a circuit or county court to challenge a termination under section 448.095(5)(c), Florida Statutes, no later than twenty (20) calendar days after the date on which the Agreement was terminated. The parties agree that any such cause of action shall be filed in St. Lucie County, Florida, in accordance with the Venue provision herein.

Section 11. Construction. The title of the section and paragraph headings in this Agreement are for reference only and shall not govern, suggest, or affect the interpretation of any of the terms or provisions within each section or this Agreement as a whole. The use of the term "including" in this Agreement shall be construed as "including, without limitation." Where specific examples are given to clarify a general statement, the specific language shall not be construed as limiting, modifying, restricting, or otherwise affecting the general statement. All

singular words and terms shall also include the plural, and vice versa. Any gendered words or terms used shall include all genders. Where a rule, law, statute, or ordinance is referenced, it indicates the rule, law, statute, or ordinance in place at the time the Agreement is executed, as well as may be amended from time to time, where application of the amended version is permitted by law.

The parties have participated jointly in the negotiation and drafting of this Agreement and agree that both have been represented by counsel and/or had sufficient time to consult counsel, before entering into this Agreement. In the event an ambiguity, conflict, omission, or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties, and there shall be no presumption or burden of proof or persuasion based on which party drafted a provision of the Agreement.

Section 12. Discriminatory, Convicted, and Antitrust Violator Vendor Lists. Contractor certifies that neither it nor any of its affiliates, as defined in the statutes below, have been placed on the discriminatory vendor list under section 287.134, Florida Statutes; the convicted vendor list under section 287.133, Florida Statutes; or the antitrust violator vendor list under section 287.137, Florida Statutes. Absent certain conditions under these statutes, neither contractors nor their affiliates, as defined in the statutes, who have been placed on such lists may submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

Section 13. Cooperation with Inspector General. Pursuant to section 20.055, Florida Statutes, it is the duty of every state officer, employee, agency, special district, board, commission, contractor, and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. Contractor understands and will comply with this statute.

Section 14. Non-Exclusivity. Contractor acknowledges and agrees that this Agreement is non-exclusive.

Section 15. Termination for Convenience. The City may, at any time, with or without cause, or for its convenience, terminate all or a portion of the Agreement upon thirty (30) days written notice to Contractor. Any such termination shall be accomplished by delivery in writing of a notice to Contractor. Following termination without cause, the Contractor shall be entitled to compensation upon submission of invoices and proper proof of claim, for services provided under the Agreement to the City up to the time of termination, pursuant to Florida law.

Section 16. Merger. This Agreement sets forth the entire agreement between Contractor and City with respect to the subject matter of this Agreement. This Agreement supersedes all prior and contemporaneous negotiations, understandings, and agreements, written or oral, between the parties. This Agreement may not be modified except by the parties' mutual agreement set forth in

writing and signed by the parties. Any quote, invoice, proposal, purchase order, or any other document referencing the Contract or order placed purchasing goods and/or services that are available under the Contract, between the parties, even if not expressly referencing this Agreement, shall be subject to the terms and conditions of this Agreement, and any additional terms and conditions, unless contained in a City Contract Amendment signed by the City's Purchasing Agent, are null and void.

IN WITNESS WHEREOF, the parties are duly authorized to bind their respective entities hereto and have accepted, made, and executed this Agreement upon the terms and conditions above stated on the day and year entered below.

SIGNATURE PAGE FOLLOWS

Contract #: 20250315

CITY OF PORT ST. LUCIE,
A Florida municipal corporation

Caroline Sturgis
Director, Office of Management & Budget

Date:

CONTRACTOR
TRANE U.S. INC.

Duane Kodal

Authorized Representative's Name
Authorized Representative

Date:

Addendum A

This addendum modifies the terms of the Agreement to which it attached and is incorporated into such Agreement.

1.0 Asbestos and Hazardous Materials. Contractor's Services expressly exclude any work connected or associated with Hazardous Materials. Hazardous Material means any pollutant, contaminant, toxic or hazardous substance, material or waste, any dangerous, potentially dangerous, noxious, flammable, explosive, reactive or radioactive substance, material or waste, urea formaldehyde, asbestos, asbestos-containing materials ("ACM's"), polychlorinated biphenyl ("PCB"), mold, fungus, bacteria, microbial growth, or other contaminates or airborne biological agents, and any other substance, the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transport, disposal, handling, or ownership of which is regulated, restricted, or prohibited, by any federal, state, or local statute, law, ordinance, code, rule or regulation now or at any time hereafter in effect, and as may be amended from time to time, including but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.), the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. §§ 2601 et seq.), and the Occupational Safety and Health Act (29 U.S.C. §§ 651 et seq.).

Contractor shall not perform any identification, abatement, remediation, cleanup, removal, transport, treatment, storage or disposal of Hazardous Materials on City's premises. City warrants and represents that there are no Hazardous Materials on the Premises in areas within which Contractor will be performing any part of the Services or City has disclosed to Contractor the existence and location of any Hazardous Materials in all areas within which Contractor will be performing any part of the Services. City shall, at all times, be and remain the owner and generator of any and all Hazardous Materials on the City's premises and responsible for compliance with all laws and regulations applicable to such Hazardous Materials.

Should Contractor become aware of or suspect the presence of Hazardous Materials in the course of performing the Services that are not disclosed, have not been previously disclosed in writing, or which present or may present a hazard to or endanger health welfare or safety, Contractor shall have the right to immediately stop work in the affected area and shall notify City. City will be responsible for taking any and all action necessary to remove or render harmless the Hazardous Materials in accordance with all applicable laws and regulations. Contractor shall be required to resume performance of the Services in the affected area only in the absence of Hazardous Materials or when the affected area has been rendered harmless; if the area has not been or cannot be rendered harmless within thirty (30) days of discovery of the Hazardous Material, Contractor may terminate this Agreement. City shall compensate Contractor for any additional costs incurred by Contractor as a result of work stoppage, including demobilization and remobilization. To the maximum extent permitted by law, City shall be responsible for (1) the presence or any leak, deposit, spill, discharge, or release or disposal of Hazardous Materials in connection with the performance of this Agreement, except to the extent such Hazardous Materials were brought onto the Premises by Contractor; and/or (2) City's failure to identify and disclose Hazardous Materials and to fully comply with all federal, state, and local statutes, laws ordinances, codes, rules and regulation now or at any time hereafter in effect regarding Hazardous Materials. Contractor shall not have any liability (whether direct or indirect and regardless of cause) relating to or arising from mold, fungus, bacteria, microbial growth, or other contaminates or airborne biological agents. Nothing herein shall

be construed as a waiver of City's sovereign immunity provided by the Florida Constitution or Sec. 768.28, Fla. Stat., nor a consent to be sued by third parties.

2.0 Workmanship and Equipment Warranty. Contractor warrants that, for a period of one year from the date of Final Completion (the "Warranty Period"), Contractor-manufactured equipment installed hereunder and the installation work included within the Services (i) shall be free from defects in material, manufacture, and workmanship and (ii) shall have the capacities and ratings set forth in Contractor's catalogs and bulletins. For Contractor-manufactured equipment not installed by Contractor, the Warranty Period is the lesser of 12 months from initial start-up or 18 months from the date of shipment. Equipment and/or parts that are not manufactured by Contractor ("Third-Party Product(s)") are not warranted by Contractor and have such warranties as may be extended by the respective manufacturer. Contractor shall provide City with all manufacturer warranties. **CITY UNDERSTANDS THAT CONTRACTOR IS NOT THE MANUFACTURER OF ANY THIRD-PARTY PRODUCT(S) AND ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR SPECIFICATIONS ARE THOSE OF THE THIRD-PARTY MANUFACTURER, NOT CONTRACTOR AND CITY IS NOT RELYING ON ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR SPECIFICATIONS REGARDING THE THIRD-PARTY PRODUCT THAT MAY BE PROVIDED BY CONTRACTOR OR ITS AFFILIATES, WHETHER ORAL OR WRITTEN.**

2.1 Warranty Remedy. If City files a claim with respect to a defect in Contractor-manufactured equipment or the installation work within the Warranty Period, Contractor will correct the defect or furnish replacement equipment (or, at its option, parts therefor that fully correct the deficiencies) and, if said Contractor-manufactured equipment was installed pursuant hereto, labor associated with the replacement of parts or equipment not conforming to this warranty. No liability whatsoever shall attach to Contractor until said equipment and Services have been paid for in full. Contractor's sole liability and City's sole and exclusive remedy with respect to any warranty claim shall be limited, at Contractor's option, to Contractor's cost to correct the defective equipment or work and/or replace equipment shown to be defective. Contractor's warranties expressly exclude any remedy for damage or defect caused by corrosion, erosion, or deterioration, abuse, modifications or repairs not performed by Contractor, improper operation not performed by Contractor, or normal wear and tear under normal usage. Contractor shall not be obligated to pay for the cost of lost refrigerant.

THE WARRANTY, LIABILITY AND REMEDIES SET FORTH IN THIS SECTION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, LIABILITIES, OR REMEDIES, WHETHER IN CONTRACT OR IN NEGLIGENCE, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL (INCLUDING WITHOUT LIMITATION LOST PROFITS), OR PUNITIVE DAMAGES. NO REPRESENTATION OR WARRANTY OF ANY KIND, INCLUDING WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, IS MADE REGARDING PREVENTING, ELIMINATING, REDUCING OR INHIBITING ANY MOLD, FUNGUS, BACTERIA, VIRUS, MICROBIAL GROWTH, OR ANY OTHER CONTAMINANTS (INCLUDING COVID-19 OR ANY SIMILAR VIRUS) (COLLECTIVELY, "CONTAMINANTS"), WHETHER INVOLVING OR IN CONNECTION WITH EQUIPMENT, ANY COMPONENT THEREOF, SERVICES OR OTHERWISE. IN NO EVENT SHALL CONTRACTOR HAVE ANY LIABILITY FOR THE PREVENTION, ELIMINATION, REDUCTION OR INHIBITION OF THE GROWTH OR SPREAD OF SUCH CONTAMINANTS INVOLVING OR IN CONNECTION WITH ANY EQUIPMENT, THIRD-PARTY PRODUCT, OR ANY

COMPONENT THEREOF, SERVICES OR OTHERWISE AND CITY HEREBY SPECIFICALLY ACKNOWLEDGES AND AGREES THERETO.

3.0 Force Majeure. Neither party shall be considered to be in default hereunder when a failure of performance is due to an Event of Force Majeure. An "Event of Force Majeure" shall mean any cause or event beyond the control of the party. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood; earthquake; tornado; storm; fire; civil disobedience; pandemic; insurrections; riots; labor disputes; labor or material shortages; sabotage; restraint by court order or public authority (whether valid or invalid), and action or non-action by any governmental authority or utility or the inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals, in each case if not caused by the fault of the affected party. If either party is rendered unable to fulfill any of its obligations under this Agreement by reason of an Event of Force Majeure it shall give prompt written notice of such fact to the other party and the affected party's obligations shall be suspended during the pendency of the Event of Force Majeure. If either party shall be unable to carry out any material obligation under this Agreement due to Event of Force Majeure, this Agreement shall, at the election of either party: (i) remain in effect but the parties' obligations shall be suspended until the uncontrollable event terminates; or (ii) be terminated upon ten (10) calendar days notice to the other party.

4.0 Change in Law. The Parties agree that if any governmental authority or public utility enacts, promulgates, or otherwise makes effective any new applicable law or tariff or amends, modifies, or changes in any way the text, interpretation, or application of any existing applicable law or tariff, including, but not limited to any changes in the utility rate structure (collectively referred to herein as "Change in Law"), then (i) if such Change in Law occurs prior to Final Completion and renders it illegal, impracticable, or impossible for either Party to perform or comply with any material obligations of this Agreement, either Party may terminate this Agreement upon ten (10) business days' notice to the other party, or (ii) if such Change in Laws occurs after Final Completion and renders it illegal, impracticable, or impossible for either party to perform or comply with any material obligation under this Agreement, then either Party shall be entitled to terminate this Agreement upon ten (10) business days' notice to the other party without any liability to the other party (except for payment by City of amounts due for any completed Services or Performance Period Services which remain unpaid as of the effective date of such termination). In the event any new or modified tariff, duty, or other government-imposed fee is enacted or changed in a manner that materially impacts the Agreement, including but not limited to the Contract Price, the Parties agree to meet in good faith to discuss the potential impact on the Services, prior to executing any right of termination. Such discussion may result in a mutually agreed adjusted to the Contract Price. Any resulting change to the Contract Price shall be subject to the City's approval, which shall not be unreasonably withheld, conditioned, or delayed. In any event, before Contractor requests an increase in Contract Price, it shall provide all documents supporting its basis for the request, and shall be limited to events that actually impact Contractor's performance, i.e., not potential, future, speculative, etc. impacts.

5.0 Damage to Equipment; Casualty or Condemnation of Premises. If any fire, flood, other casualty, or condemnation, if not due to any fault of Contractor, renders a majority of the Premises incapable of being occupied or destroys a substantial part of the area(s) within which the Services is/are to be performed, Contractor may terminate this Agreement, effective immediately, by delivery of a written notice to City. If any significant item of the equipment furnished hereunder is irreparably damaged by the negligence or willful misconduct of an employee or invitee of City, or is destroyed or stolen not due to the fault of Contractor, and if City fails to repair or replace said item within a reasonable period of time agreed to by Contractor, Contractor may terminate this Agreement, effective immediately.

6.0 Concealed or Unknown Conditions. Contractor shall promptly notify City if it encounters the following conditions at the Premises: (i) subsurface or otherwise concealed physical conditions or (ii)

unknown physical conditions of an unusual nature that differ from those conditions ordinarily found to exist in construction activities of the type and character as the Services. If such conditions cause an increase in Contractor's cost of, or time required for, performance of any part of the Services, Contractor shall be entitled to an equitable adjustment to the Contract Price and/or the project schedule and Contractor and City shall agree, by Change Order signed by the City's purchasing agent, on how to proceed and the extent of any adjustment to the time required for performance of the Services and to the Contract Price, in light of the differing conditions. If the parties are unable to reach agreement on an appropriate Change Order, either party may terminate this Agreement by delivery of 30 days advance written notice.

7.0 Pre-Existing Conditions. Contractor is not liable for any claims, damages, losses, or expenses, arising from or related to conditions that existed in, on, or upon the Work site before the Commencement Date of this Agreement ("Pre-Existing Conditions"), including, without limitation, damages, losses, or expenses involving Pre-Existing Conditions of the building envelope, mechanical system, plumbing, and/or indoor air quality issues involving mold and/or fungi. Contractor also is not liable for any claims, damages, losses, or expenses, arising from or related to work done by or services provided by individuals or entities that are not employed by or hired by Contractor.

8.0 Termination Without Cause. Termination of this Agreement without cause will be effectuated by delivery of at least thirty (30) day advance written notice declaring termination, upon which event a) if terminated without cause by the City, or terminated by the Contractor as permitted in the Agreement, City shall be liable to Contractor for payment for all Services furnished up to the effective date of termination and any damages sustained by Contractor, including the cost of terminating orders or subcontracts for labor or material and price of any specially manufactured items, whether in production or delivered; and b) Contractor shall have no further obligation to perform Services for City under this Agreement. However, each provision that should survive termination, including but not limited to, indemnification, insurance, sovereign immunity, shall survive such termination without cause.